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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,313

12/04/2003

John Carlucci

64766-5003

2212

24574 7590 11/09/2007  
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EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

11/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/730,313

Applicant(s)

CARLUCCI ET AL.

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/19/07
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) \_\_\_\_\_ is/are pending in the application. 1-14 and 15-21
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration. 1-3 8-11 and 19
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected. 4-7 12-14 16-18 20 and 21
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY  
PRIMARY EXAMINER

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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Response to Applicants remarks dated 10/08/2007.

In response to the applicants remarks dated 10/08/2007 the examiner directs the applicants attention to Reynolds elements 22a, 22b and 19a which allows bar 30 to rotate to a position which allows element 30 to substantially be positioned in a plane wherein a user may lie on the platform. The aforementioned remarks are directed to claim 4.

In response to applicants remarks as directed to claim 5. The applicant is reminded that, no resistance mechanisms is claimed by applicant in claim 5, The applicant is reminded that, no resistance mechanism is claimed by applicant in claim 5, that would provide an adjustable resistance.

The examiner therefore states that as broadly claimed a progressive resistance may be obtained by Reynolds by merely changing the angular position of the element (30) of Reynolds.

In response to the applicants arguments directed to the amended claim 12 the examiner reminds the applicant that is claims are so broad so as to read on the vertical plane of the platform of Harmon and the horizontal plane of Harmon. As to applicant inclusion of claim 15 in his device the examiner considers element 310 of Harmon as a track and element 302 as a platform track and the platform being connected to the

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platform track. The platform track being secured to the being connected to the platform track. The platform track being secured to the bottom of the platform at element (318) and the handle bar track slidably engaging the platform track.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-7, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds.

Claims 4-7 are rejected for the same as set forth in the rejection of the same claims in the Office Action of 07/18/2006.

In regard to claim 20 handle bar 30 is slidably attached to the track (22), which is secured to the platform. In regard to claim (21) element 18 is considered as part of the platform, therefore the handle bar can be positioned below a plane which element (18) defines.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-014, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon.

Claims 12-14, 16 and 17 are rejected for the same reasons as set forth in the rejection of the same claims in the Office Action of 07/18/06.


Claim 12 has been further addressed by defining that element 310 of Harmon is a handle bar track and element 302 is a platform track.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon in view of Harris et al and Danylieko.

Claim 18 is rejected for the same reasons as set forth in the rejection of the same claims in the Office Action of 07/18/2006.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

  
JEROME DONNELLY  
PRIMARY EXAMINER